

**Award No. 9860**

**Docket No. MS-12053**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

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**PARTIES TO DISPUTE:**

**PAUL KUDIAK**

**NEW YORK CENTRAL RAILROAD, Eastern District (except  
Boston and Albany Division) and New York District**

**and**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES**

**STATEMENT OF CLAIM:** Petitioner was arbitrarily deprived of his seniority rights without just cause or proper notice. Said deprivation of seniority rights has resulted in a substantial loss of income to petitioner, and he seeks an award to compensate him for said loss.

**OPINION OF BOARD:** In the instant case, there is no denial in the record of Respondents' statement of facts, viz., that, on November 1, 1956, Claimant Kudiak voluntarily relinquished a regular position as crossing watchman at Canandaigua, N. Y., to work extra as crossing watchman at Rochester, N. Y. In so doing, we conclude that, under rules of the agreement in effect between the Carrier and the Brotherhood, Claimant forfeited the seniority he had acquired since his assignment to the position at Canandaigua on December 1, 1948, and, therefore, there is no merit to his claim herein.

**FINDINGS:** The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing thereon;

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated by Carrier.

**AWARD**

**Claim denied in accordance with Opinion and Findings.**

**NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION**

**ATTEST: S. H. Schulty  
Executive Secretary**

**Dated at Chicago, Illinois, this 16th day of March, 1961.**